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ABSTRACT

This booklet explains parent and student rights concerning special education for children with disabilities, as outlined in federal law and Texas law. The booklet offers definitions of terms and outlines the steps involved in the child-centered educational process leading to special education services. Components of the process are then described, including: comprehensive individual assessment; independent educational evaluation; Admission, Review, and Dismissal Committee; individual educational plan; related services; educational placement; extended year services; extracurricular activities; discipline; individual transition plan; graduation; transferring to a new school; procedures regarding educational records; complaint process, mediation process, and due process hearings; attorneys' fees; and agencies that provide low-cost or free assistance and information to parents. (JDD)

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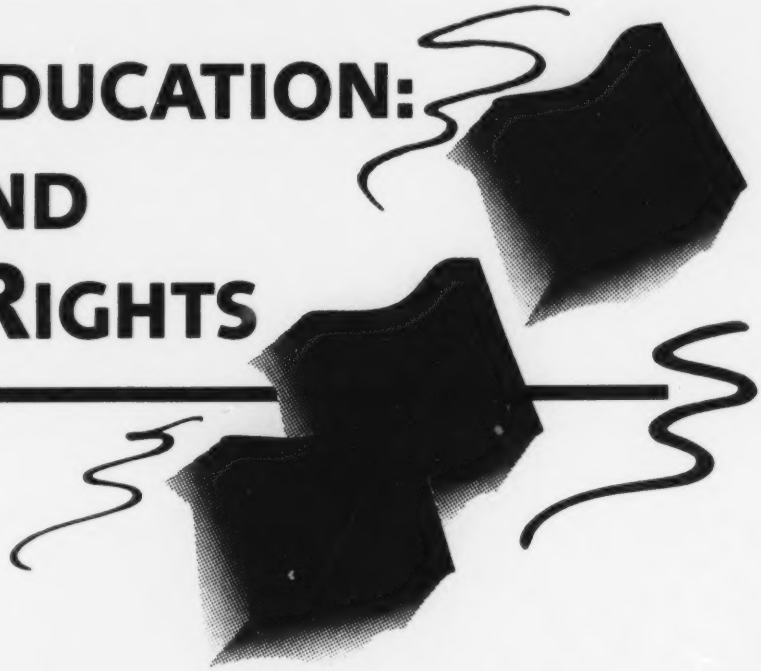
SPECIAL EDUCATION: PARENT AND STUDENT RIGHTS



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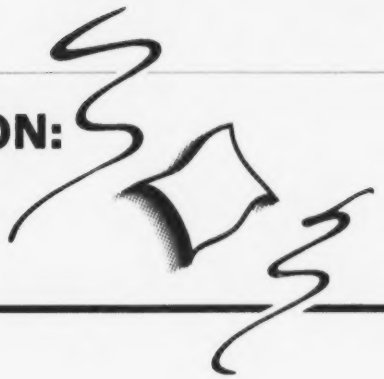

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Dear Parent

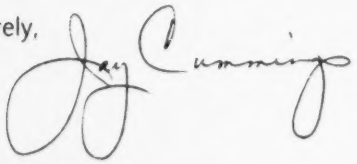
You and your school district share responsibility for your child's education. This booklet explains your rights about his or her education as outlined in federal and state law. Someone from the school will go over this booklet with you. If there is something that you do not understand, ask for further information. This booklet is also available in Spanish, braille, and Vietnamese. Tape recordings are available in English, Spanish, and Vietnamese.

At this point in time, your child has been referred for testing to see if he or she needs special education, or your child is already receiving special education instruction and related services. We hope that this booklet and the notices that you will receive from school district personnel will help you know more about your rights and responsibilities and better prepare you to work with the school to help your child. Your support, attendance at school meetings, and encouragement at home all contribute to the quality of your child's education.

Please feel free to contact the school or call the toll free Parent Hotline at the Texas Education Agency at 1-800-252-9668 if you have any questions or want to discuss any of this information. The name and phone number of the contact person in your local school district is:

_____

Sincerely,



J.R. Cummings
Deputy Commissioner for Special Programs

NOTE: Federal and state regulations pertaining to special education are detailed in the publication, *State Board of Education Rules for Special Education Services*, which is available through Publications Distribution, Texas Education Agency, 1701 N. Congress, Austin, Texas 78701. The cost is $5.00, shipping and handling included.

PROCEDURAL SAFEGUARDS

In order to receive special education, your child will go through a step-by-step process that is outlined in this booklet. Certain protections have been built into the process that guarantee by law the rights of you and your child. These are known as procedural safeguards and are explained on the following pages in the booklet. Becoming familiar with these will help you to be a well-informed advocate for your child.

Notice . . . . . pages 3, 5

Consent . . . . . pages 1, 4, 9

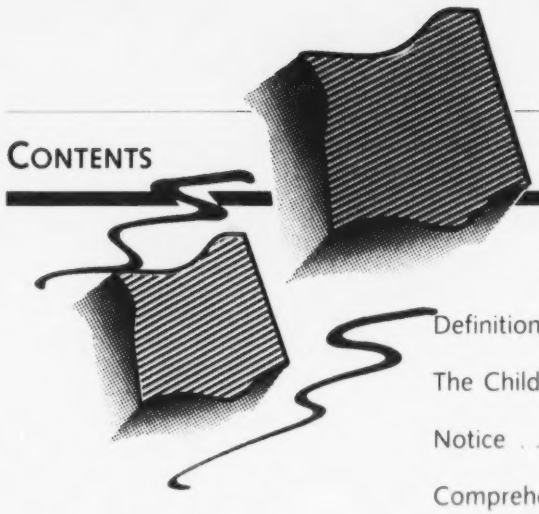
Evaluation Procedures . . . . . pages 5-7

Placement Procedures and
Least Restrictive Environment . . . . . pages 11-12

Surrogate Parents . . . . . page 3

Confidentiality of Information . . . . . pages 16-17

Complaint Process, Mediation, Hearings . . . . pages 18-20



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NOTICE OF NON-DISCRIMINATION

You are hereby notified that pursuant to the requirements of the Rehabilitation Act of 1973 this school district does not discriminate on the basis of handicap in any of the programs and services offered by the district. Qualified students with handicaps are entitled to be provided with regular or special education and related aids and services that are designed to meet individual educational needs as adequately as the needs of nonhandicapped persons are met. You may contact the school for more information and for the name of the person or persons in the district responsible for coordinating the district's efforts to comply with this law. *(34 CFR 104.7(a), 34 CFR 104.8(a), 34 CFR 104.33(b))*

DEFINITION OF TERMS

Some terms which are used in this booklet and by school personnel are explained below.

All rules in the Code of Federal Regulations, Texas Education Code, and Title 19 Texas Administrative Code pertaining to special education are included in the Agency publication, State Board of Education Rules for Special Education Services, *which is available from the Texas Education Agency.*

ADMISSION, REVIEW, AND DISMISSAL COMMITTEE (ARD)

The admission, review, and dismissal (ARD) committee is composed of a student's parent(s) and school personnel who are involved with that student. The ARD committee determines a student's eligibility to receive special education services. The committee also plans the educational program of each student eligible for special education. *(34 Code of Federal Regulations (CFR) 300.344; 19 Texas Administrative Code (TAC) 89.221)*

ADULT STUDENT

For special education purposes, a student becomes a legal adult when he or she reaches 18 years of age, unless a court has declared the student incompetent. The adult student assumes all the rights of parents described in this booklet. The school must treat the student as an adult. However, continued participation of parents, with student permission, is encouraged. *(19 TAC 89.221(h)(3)(B))*

CODE OF FEDERAL REGULATIONS (CFR)

The Code of Federal Regulations (CFR), cited in this booklet, contains the rules of the federal government. All agencies and facilities receiving funds under a federal law covered in this document must follow these rules. This includes all local school districts accredited by the Agency.

CONSENT

Your written permission is required before the school tests your child for special education for the first time and places your child in special education for the first time. Your written consent is also needed, in most instances, before the school can release confidential information from your child's education records. The actions for which your permission is being requested must be fully explained by the school. Consent is voluntary and may be withdrawn in writing at any time. However, if you revoke consent after your child is first placed in special education, your child's current placement will not change unless: (a) you and the school agree otherwise (following ARD committee procedures) or (b) a due process hearing resolves the dispute. *(CFR 300.504(b), 300.571, 300.500)*

Due Process Hearing

A due process hearing is a formal legal procedure used to solve disagreements concerning the education of students in special education. An impartial hearing officer conducts the hearing and makes decisions about the issues at hand. A full description of the hearing process and how to use it begins on page 19 under the heading, "Hearing Process."

Education of All Handicapped Children Act (EHA)

This federal law, commonly known as Public Law 94-142 (PL 94-142), was passed in 1975. It ensures a free appropriate public education to students with handicaps. A portion of special education funding is dependent upon compliance with this law and its subsequent amendments.

Essential Elements

Essential elements are the minimum educational components established by the State Board of Education which identify the knowledge, skills, and competencies that students are expected to learn in each course at each grade level. For example, an essential element for 3rd grade English language arts is "using comprehension skills to gain meaning from whatever is read."

Extended Year Services (EYS)

Extended year services are individualized instructional programs for eligible students in special education that are offered beyond the regular 175-day school year. More information can be found on page 12.

Free Appropriate Public Education

Federal law mandates that students have the right to a free appropriate public education, including special education and related services. The public school provides these services at the preschool, elementary, and secondary levels at no cost to parents. Children with visual or hearing impairments may receive services from birth. The programs and services must meet Texas Education Agency standards and must follow the goals and objectives stated in the student's individual educational plan (IEP). *(34 CFR 300.1, 300.4; Texas Education Code (TEC) Section 21.503(a))*

Graduation

"Graduation" is the completion of all required parts of an educational program. A special education student may graduate under individual educational plan provisions or graduate by completing the same program required of regular education students. See "Graduation" on page 14 for more information.

Individual Educational Plan (IEP)

The individual educational plan (IEP) is developed by the ARD committee, of which you are a member. The IEP includes educational goals and objectives for your child. It documents the services your child needs, how they will be provided, and how progress will be measured. *(19 TAC 89.223)*

Least Restrictive Environment

Your child has the right to an education in a setting with children who are not in special education to the maximum extent appropriate. This is known as the least restrictive environment. *(34 CFR 300.550(b); 19 TAC 89.235(a))*

Mediation

You may not always agree with the educational program developed by the ARD committee. Sometimes disagreements may be resolved through an impartial third party—a mediator. During mediation, you voluntarily meet with a school representative and the mediator to review your child's educational plan and work out solutions that are satisfactory to both you and the school. A description of how to use the mediation process begins on page 18 under the heading, "If You Have a Problem."

Notice

The school must let you know in writing about actions or proposed actions as specified in a later section of this booklet. Whenever possible, all notices will be written in your native language. If this is not possible, the school must use other means to make sure that you understand the information in the notice. If you have any questions, the school contact person listed on the letter in the beginning of this booklet will provide additional information. *(34 CFR 300.504(a), 300.505)*

Parent

"Parent" as used in this booklet means a natural or adoptive parent or guardian, surrogate parent, someone acting in place of a parent (i.e., grandmother or step-parent with whom a child lives), or someone who is legally responsible for the child. The term parent also applies to an adult student receiving special education services. *(34 CFR 300.10, 300.574)*

Special Education

Special education is instruction and related services provided to students who have the following handicapping conditions according to state and federal criteria: learning disabilities, speech impairments, physical handicaps, mental retardation, emotional disturbance, autism, multiple handicaps, pregnancy, visual handicaps, or hearing impairments. To receive special education, students must be at least 3 years old but under 22 on September 1 and need the services of special education to progress through school. Students with visual handicaps or who are hearing impaired may receive special education services from birth until reaching their 22nd birthday by September 1. *(19 TAC 89.211, 89.220; 34 CFR 300.5, 300.300))*

Surrogate Parent

A surrogate parent represents the student as a parent would in all matters of identification, evaluation, educational placement, and provision of a free, appropriate public education. A surrogate parent is required when a minor student's parents are unknown or cannot be found, or when the state is the managing conservator of the student. The school district decides when a surrogate parent is needed and assigns one to the student. *(34 CFR 300.514)*

Texas Education Agency (Agency)

The Texas Education Agency, the state department of education, is responsible for the public education of all students in the state. The Agency works with local schools to see that all public education laws, rules, and regulations are followed. Compliance specialists from the Agency monitor all special education programs on a regular cycle.

Texas Education Code (TEC)

The Texas Education Code (TEC) is a publication that contains all laws passed by the Texas legislature concerning education.

Texas Assessment of Academic Skills (TAAS)

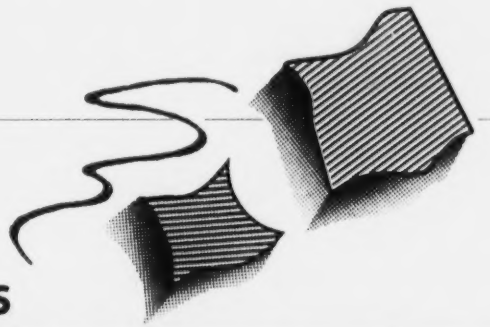
The "TAAS" is a test administered in the 3rd, 5th, 7th, and 9th grades and at the exit level to measure student mastery of skills in reading, writing and mathematics. The ARD committee decides if your child should take the TAAS or if he or she can take the test with certain modifications.

Texas State Curriculum (Chapter 75)

As a result of Texas legislation passed in 1981, a well-balanced curriculum must be provided to every student. This includes 13 subject areas for kindergarten through twelfth grade. Essential elements of instruction have been designated for each subject and grade level. This mandated curriculum is included in Chapter 75 of the Texas Administrative Code.

Title 19 Texas Administrative Code (19 TAC)

The Texas Administrative Code (TAC) contains all rules for all state agencies in Texas. Title 19 Texas Administrative Code (19 TAC) includes all rules concerning education. These rules are passed by the State Board of Education.



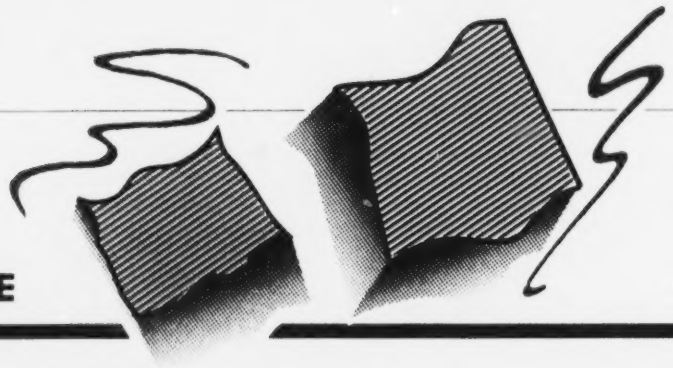
The Child-Centered Educational Process

Students in Texas go through a child-centered educational process in order to receive special education. It is called "child-centered" because the major goal is to meet each child's individual educational needs. This booklet explains your rights at each stage of the process. When your child is referred for consideration for special education services, the following steps are taken:

- you consent to having your child tested;
- a comprehensive individual assessment (testing) is completed; and
- an admission, review, and dismissal (ARD) committee meeting is held.

If your child is eligible for and needs special education, the following additional steps are taken:

- an individual educational plan (IEP) of instruction and related services is developed; and
- the individual educational plan is reviewed at least annually.



NOTICE

The school must give you written notice when it plans to identify, assess, or place your child in special education or when changes are proposed in any of these three areas. The notice must include:

- reference to certain parent rights (notice, consent, hearings, protection in assessment procedures, least restrictive environment, confidentiality of information);
- what the school is proposing to do;
- why the school wants to take the action;
- what alternatives the school considered before taking the action;
- why these alternatives were rejected;
- a description of the tests, records, reports the school used to make the decision; and
- any other relevant factors.

Notice must be given at least five school days before the proposed action unless you agree in writing to a shorter time period. *(34 CFR 300.504, 300.505; 19 TAC 89.229(c))*

COMPREHENSIVE INDIVIDUAL ASSESSMENT

Your child will be tested to see if he or she needs special education.

"Comprehensive individual assessment" is the testing done when your child is referred to special education. The ARD committee uses the testing results to determine whether or not your child meets state and federal guidelines regarding handicapping conditions and whether special education is needed. Testing is also used to design the educational program. The assessment may include printed tests, observations, information from parents, and other forms of information. Eligibility and need for special education services must be reviewed every three years as long as your child is in special education. This retesting may be done more often if conditions warrant or if requested by you or the school. *(34 CFR 300.531, 300.534; 19 TAC 89.233)*

In the comprehensive individual assessment, you have the right to:

- receive written notice before the school assesses or refuses to assess your child *(34 CFR 300.504; 19 TAC 89.229(c))*;
- receive information about the abilities, skills, and knowledge to be assessed *(34 CFR 300.505(a)(2))*;
- give your consent before the school assesses your child for the first time *(34 CFR 300.504(b)(1)(i))*;
- receive a description and explanation of the procedures, tests (with examples), records, or reports to be used in the evaluation *(34 CFR 300.505(a)(3))*;
- inspect and review all assessment records before the ARD committee meeting *(34 CFR 300.562)*;
- have the results of these assessments considered at the ARD committee meeting *(19 TAC 89.221(b)(1))*;
- be assured that tests and other assessment materials will be in your child's native language or other mode of communication *(34 CFR 300.532(a)(1))*;
- be assured that no single procedure will be used as the sole basis for determining your child's educational program *(34 CFR 300.532(d))*;
- present a written complaint to the Texas Education Agency if you feel that a federal or state rule concerning the assessment process is not being followed *(34 CFR 76.780(a))*;
- request the Secretary of Education at the United States Department of Education to review the final decision of the Agency regarding the complaint *(34 CFR 76.781(c))*; and
- request mediation or a due process hearing if agreement on assessment procedures or results cannot be reached. *(34 CFR 300.506(a), 300.506 Comment; 19 TAC 89.229(d))*

In the comprehensive individual assessment process, the student has a right to:

- be assessed in all areas related to the suspected disability, including, when appropriate, health, vision, hearing, sociological and emotional status, general intelligence, academic performance, communication skills, and motor abilities *(34 CFR 300.532(f); 19 TAC 89.233)*;
- be tested with instruments designed for the specific purpose for which they are used *(34 CFR 300.532(a)(2))*;
- be tested in a way that is not racially or culturally discriminatory *(34 CFR 300.530(b))*;
- be tested by qualified personnel *(34 CFR 300.532(a)(3))*; and
- be evaluated by a group of persons including at least one who is a specialist in the area of the suspected disability. *(34 CFR 300.532(e))*

The assessment must be finished and the report written within 30 school days from the date the district's special education staff received the referral and within 60 calendar days from the date the referral was initiated in the district. *(19 TAC 89.233(a); TEC 21.5031)*

INDEPENDENT EDUCATIONAL EVALUATION

Any testing the school pays for must meet criteria stated in its assessment procedures.

If you disagree with all or part of the district's assessment, you may ask the school to provide an independent educational evaluation. "Independent educational evaluation" means testing conducted by a qualified examiner not employed by the school. It is another way to determine whether your child needs special education or to identify specific needs that you feel were not identified by the district's assessment. If you ask the school for an independent evaluation, the school must either pay for it or request a hearing to show that its assessment was appropriate and that it is not responsible for another one.

If the school requests a hearing and the hearing officer finds that the school's evaluation was appropriate, then the school does not have to pay for the independent assessment. If the hearing officer finds that the school's assessment was not appropriate, the school must pay for the independent assessment. Any assessment the school pays for must meet the criteria for testing as stated in its assessment procedures. Schools have specific procedures which must be followed, including the location of the evaluation and the qualifications of persons who can conduct evaluations. The procedures may include maximum allowable charges for specific tests. The school will have a list of qualified professionals for your reference and can tell you where you can get an independent assessment. You should ask about these procedures before obtaining an independent evaluation if you expect the school to pay for it. *(34 CFR 300.503)*

As a parent, you always have the right to obtain at your expense an independent assessment from qualified professionals of your choice. The ARD committee must consider the information from that assessment when making decisions about your child's school program. The results may also be presented as evidence in any due process hearing.

ADMISSION, REVIEW, AND DISMISSAL (ARD) COMMITTEE

You are an active partner in planning your child's educational program.

The ARD committee decides the educational program and where it will take place for students referred for special education or currently receiving special education services. *(19 TAC 89.221(a); 34 CFR 300.343)* As an ARD committee member, you are an active partner with school personnel in planning your child's educational program.

The ARD committee is composed of at least the following members in making decisions:

- you, the adult student, or a designated representative;
- the student, when appropriate;
- at least one representative from special education;
- a school administration representative;
- a representative from instruction;
- a representative from special education assessment, when needed (usually at the time of initial placement or three-year reevaluation); and
- other professionals named in the *State Board of Education Rules for Special Education Services* if your child is visually handicapped, hearing impaired, limited English proficient, or being considered for vocational education. *(19 TAC 89.221(h))*

Other persons may participate in ARD committee meetings in order to help you if you, the school district, or the student wants them there. *(19 TAC 89.221(h))*

The ARD committee's first task is to review the assessment and all other information collected to decide if your child has a handicapping condition according to specific federal and state eligibility criteria. The ARD committee's second task is to decide if there is an educational need that requires special education services. If your child does need special education, then the next task is to develop an IEP. You have the right to and are strongly encouraged to be involved in this process.

The ARD committee must meet within 30 calendar days after the assessment report is completed for students referred for the first time. If the 30th day falls in the summer, the ARD committee has until the first day of classes in the fall to make the placement and individual educational plan decisions unless it appears that the student will need extended year services during that summer. *(19 TAC 89.221(d))*

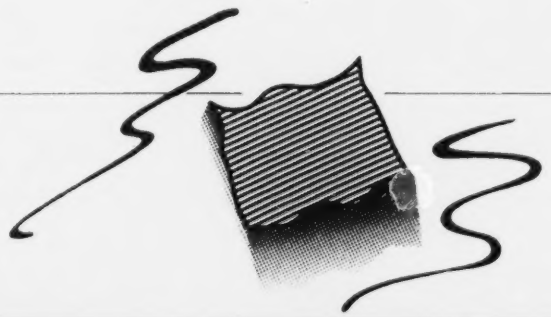
ARD committee meetings are scheduled by the school at least once a year to review your child's progress. However, you may request an ARD committee meeting at any time to discuss educational concerns such as placement, IEP goals, and extent of services provided. You are encouraged to confer informally with the school's special education personnel about problems or questions before asking for a formal ARD committee meeting. However, any change in the IEP, such as placement, must be made by the ARD committee.

In the admission, review, and dismissal committee process, you have a right to:

- receive written notice of scheduled ARD committee meetings at least five school days before the meeting, unless you agree otherwise. This notice will tell you the purpose, time, and location of the meeting and who will be in attendance. It will also tell you that services other than those proposed by the school may be discussed. *(34 CFR 300.345(a)(b); 19 TAC 89.229(b)(c))*
- receive written notice of what the school proposes for your child as a result of the meeting *(34 CFR 300.504 Comment 1)*

- have the ARD committee meeting held at a time and place that is convenient for both you and the school. However, if neither you nor the other parent can attend, the school will use other methods—telephone, letter, or personal conferences—to give you an opportunity to participate before or during the meeting. If neither parent can attend, the school may conduct the meeting without you *(34 CFR 300.345(c)(d))*
- have an interpreter present at the ARD committee meeting if you are hearing impaired or have a native language other than English *(34 CFR 300.345(e))*;
- bring one or more persons to the ARD committee meeting to help or represent you *(34 CFR 300.344(a)(5); 19 TAC 89.221(h))*;
- be actively involved in the ARD committee meeting when the IEP is developed and placement determined *(19 TAC 89.221(h))*;
- discuss any service you feel will be helpful to your child *(19 TAC 89.229(b))*;
- be given information about the Texas School for the Blind and Visually Impaired or Texas School for the Deaf if your child is visually or auditorially handicapped or deaf-blind *(TEC 21.507(e))*;
- audio tape record any ARD committee meeting after first informing all members attending that a recording is being made *(19 TAC 89.221(j))*;
- sign the IEP to show that you were present at the meeting *(19 TAC 89.221(c))*;
- indicate on the IEP, agreement or disagreement with the decisions made by the committee *(19 TAC 89.221(c))*;
- give consent the first time your child is placed in special education. If you refuse consent, the school may request a due process hearing to show that your child should be evaluated or placed without your consent. Parental consent is needed only for initial placement and not for any subsequent changes in your child's IEP. *(34 CFR 300.504(b)(c))*

INDIVIDUAL EDUCATIONAL PLAN (IEP)



The IEP, developed by the ARD committee, is based on educational need(s) identified during the assessment process. The IEP states which services your child needs, how those services will be provided, when and where they will be provided, and who will provide them. It describes your child's educational program and any modified essential elements of the Texas State Curriculum (Chapter 75) necessary for the program to meet his or her needs. *(19 TAC 75.4, 89.223; 34 CFR 300.346)*

It is acceptable for a draft version of the IEP to be developed by school personnel before the meeting. However, all ARD committee members must have the opportunity at the meeting to revise the IEP as appropriate. *(19 TAC 89.221(i))*

If possible, mutual agreement must be reached concerning the required parts of the IEP. If you disagree with the decisions made, you can request that the ARD committee recess for up to ten school days. During this time more information can be gathered, and perhaps additional resource people can be brought to the next meeting. If, after the recess, mutual agreement is still not reached, the IEP that the school decides is appropriate will be implemented. You have the right to file a complaint, request mediation, or request a due process hearing any time you disagree with an ARD committee decision. *(19 TAC 89.221(i))* See "If You Have a Problem," page 18.

Your child's IEP must:

- be developed before special education services can be provided *(34 CFR 300.342(b)(1))*;
- be implemented as soon as possible following the ARD committee meeting *(34 CFR 300.342(b)(2))*;
- include his/her current skills and abilities *(19 TAC 89.223(a)(1))*;
- include short-term objectives and annual learning goals *(19 TAC 89.223(a)(2)(3))*;
- include any changes in the content or mastery level of the essential elements of the Chapter 75 curriculum *(19 TAC 89.221(b)(6))*;
- include the specific services to be provided through regular education, special education, and related services *(34 CFR 300.346(c))*;
- include how much time he/she will spend in regular education, special education, and related services *(19 TAC 89.223(a)(4)(A))*;
- include the position of the person providing any related services *(19 TAC 89.223(a)(4)(B))*;
- include goals and objectives for extended year services if your child is to receive these services *(19 TAC 89.233(e))*;
- include modifications needed for success in regular, remedial, or supportive programs, if any *(19 TAC 89.223(a)(4)(c))*;
- include projected dates for beginning and ending special education and related services *(34 CFR 300.346(d))*;
- include criteria and schedule for evaluating progress to see if the goals and objectives are being met and if your child is eligible to participate in extracurricular activities *(19 TAC 89.223(a)(4)(D); 34 CFR 300.346(e))*;
- include modified standards, if necessary, for participation in extracurricular activities *(TEC 21.920)*;
- be reviewed at least once a year to assess progress and make changes, if needed *(19 TAC 89.221(b)(10); 34 CFR 300.346(e))*;
- include whether he/she will take or be exempted from some or all of the Texas Educational Assessment of Minimum Skills (TEAMS) *(19 TAC 89.223(a)(4)(E))*;
- include modifications allowed for taking the TEAMS; and
- include procedures and methods of behavior management and discipline to be used with him/her, if needed. *(19 TAC 133.28(5))*

If your child is visually handicapped, autistic, or placed in vocational education, the IEP will include other sections. You can get an explanation of these sections from the special education department at your school. *(19 TAC 89.223(b)(c))* The IEP may also include other areas at the discretion of the ARD committee.

RELATED SERVICES

The term "related services" means developmental, corrective, and supportive services, including transportation, which your child may need to benefit from education, special or modified regular.

The ARD committee decides which, if any, related services are needed based on assessment data and includes them in the IEP. The school must provide these related services at no cost to the parent, and they must be delivered by qualified personnel. Many kinds of related services may be provided, such as: art therapy, audiological services, corrective therapy, counseling services (parent and student), medical services for diagnostic purposes, music therapy, occupational therapy, orientation and mobility training, parent training, physical therapy, psychological services, recreation therapy, school health services, social work services, special transportation, speech therapy, visual therapy, provision of adaptive equipment, and other services approved by the Texas Education Agency. *(34 CFR 300.13; TEC 21.502(1)(B); 19 TAC 89.217)*

EDUCATIONAL PLACEMENT

Your child will be taught whenever possible in a regular education classroom.

Your child has the right to be placed in the least restrictive environment. This means that your child will:

- be placed in the educational setting which is based on the IEP *(34 CFR 300.552(a)(2))*;
- remain in the regular education classroom if the setting is appropriate and as long as implementing your child's IEP (including the behavior management plan) does not prevent other students from learning *(34 CFR 300.552 comment)*;

- be removed from the regular education classroom only when education with the use of supplementary aids and services cannot be achieved satisfactorily *(34 CFR 300.550(b)(2))*;
- be considered for a variety of educational settings, inciuding those within the local school district, home instruction, special schools, approved nonpublic schools, institutions, or residential placements *(34 CFR 300.551)*;
- be placed in a program as close to home as possible *(34 CFR 300.552 comment, 19 TAC 89.218(3))*;
- be educated, to the maximum extent appropriate, with regular education students *(19 TAC 89.218(b); 34 CFR 300.550(b)(1))*;
- have the educational placement reviewed at least once each year *(34 CFR 300.552(a)(1); 19 TAC 89.221(b)(10))*; and
- have the opportunity to participate in extracurricular activities (such as school clubs, sports, musical groups), meals, and recess as much as is appropriate for your child. *(34 CFR 300.553; 19 TAC 89.218(b))*

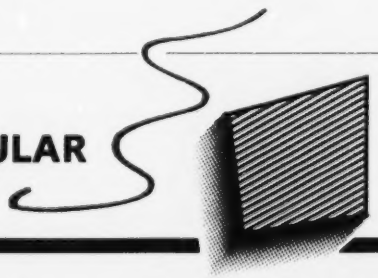
Unless you agree to an earlier timeline, you must be notified at least five school days before the school plans to change, or refuses to change, the educational setting of your child. *(19 TAC 89.229(c))*

EXTENDED YEAR SERVICES

Your child may need educational services beyond the regular school year.

Extended year services (EYS) are individualized instructional programs that extend beyond the regular 175-day school year for certain eligible students receiving special education. The ARD committee will decide on an individual basis whether your child needs EYS. The decision must be based on whether EYS is needed to prevent your child losing, to a substantial degree, certain critical skills that he or she has gained during the current school year. You have the right to request that your ARD committee discuss this. *(19 TAC 89.235(i))*

EXTRACURRICULAR ACTIVITIES

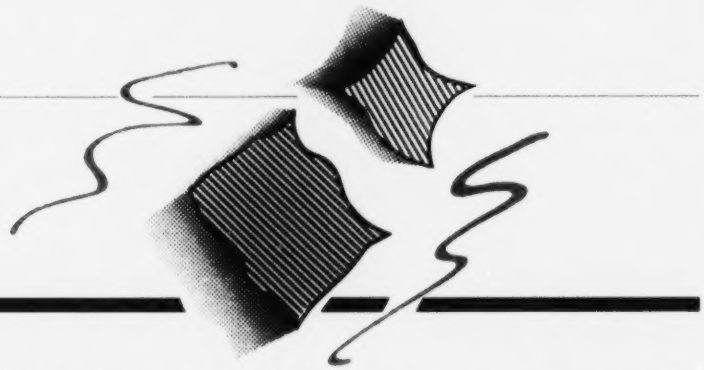


All students, including those with special needs, are given the opportunity to participate in extracurricular activities. Students are suspended from extracurricular activities if they make a six-week grade below 70 in any academic class. All students are subject to this rule. However, whenever the

ARD committee determines that your child's handicapping condition interferes with the ability to meet regular academic standards, modifications to those standards are noted in your child's IEP. Suspension from extracurricular activities is based on failure to meet those modified standards. *(TEC 21.920(b)(c))*

When discussing extracurricular activities for your child, the ARD committee:

- identifies the courses in which your child's handicapping condition will keep him or her from meeting academic standards *(19 TAC 89.221(b)(6))*;
- establishes standards and a schedule for evaluating your child's academic progress which in turn is used to determine eligibility for extracurricular activities *(19 TAC 89.223(a)(4)(D))*; and
- reviews the IEP if your child does not receive passing grades under regular or modified standards in any course for two consecutive six-week reporting periods. This review is not required if your child is pregnant and has no other handicap. If your child has a speech handicap only, the review occurs only if the failure is in language arts. *(19 TAC 89.22l(b)(11))*



DISCIPLINE

A student in special education is subject to the school's student code of conduct unless otherwise stated in the IEP. Discipline is part of the educational process. It prepares a student to work with other people in a socially acceptable manner. You should receive a copy of your school's code of conduct and changes as they are made. Request a copy if you have not already received one. Every year, all parents are asked to sign a statement that says they understand the student code of conduct and agree to the responsibilities outlined in it. *(19 TAC 133.22(b))* Your child's IEP may include a behavior management plan which outlines disciplinary options to be used in addition to, or instead of, certain parts of the district code.

In some cases, inappropriate behavior may cause your child to be removed from classes and school for a few days or to be sent to an alternative education program, such as a supervised setting separate from regular classes. *(19 TAC 133.28(2)(3))* In either case, your child will be given the opportunity to complete assignments and earn course credit. If your child commits a serious offense, such as hitting a teacher or another student, or continues to engage in serious or persistent misbehavior that violates the district's code of conduct, he or she may be expelled from school. *(19 TAC 133.27, 133.28(6))*

Before a student in special education can be expelled, the ARD committee must determine that the misconduct was not due to the student's handicap or an inappropriate placement. *(19 TAC 133.28(2)(B))* The ARD committee will also determine which special education and related services your child will continue to receive while expelled. These services cannot be stopped.

INDIVIDUAL TRANSITION PLAN

Beginning with the 1990-91 school year, if your child receives special education services and is at least sixteen years old, the school will develop and annually review an individual transition plan (ITP). This is a separate document from the IEP and is intended to prepare your child for community living and work after he/she is no longer receiving public school services. You will be invited to participate in developing the ITP, and the school will invite other participating agencies that they or you wish to have involved.

If disagreements should arise between you and the school during this process you have the right to file a complaint or request mediation but, the hearing process (see "If You Have a Problem," page 18) is not available for resolving disputes in this area.

GRADUATION

All students are expected to finish school with skills to help them lead productive lives.

It is important that students in special education finish their public school education with skills that will help them lead productive lives. Like other students, they should be prepared for college, vocational/technical school, or employment if possible. Graduation rules require ARD committee members to determine that the student has:

- completed an IEP that contains the same requirements for graduation as students in regular education. This means the student has earned the minimum academic credit requirements for graduation and has passed the exit level assessment instrument (TAAS); *(19 TAC 89.235(h)(2))*

or

- completed an IEP that leads to one of the following:
  - full-time employment and self-help skills which allow the student to maintain employment without ongoing support of the school district *(19 TAC 89.235(h)(3)(A)*;
  - mastery of employability skills (such as those taught in a vocational education program) and self-help skills which do not require ongoing support of the school district *(19 TAC 89.235(h)(3)(B))*; or

- access to services which are not within the legal responsibility of public education such as college, employment, or acceptance by an adult service agency. *(19 TAC 89.235(h)(3)(C))*

or

- completed the IEP and no longer meets age eligibility requirements. *(19 TAC 89.235(h)(6))*

If you require additional information about how these rules affect your son or daughter, please contact the school's principal or special education contact.

Earning Academic Credit

Students in secondary school must earn either state or local credit for each subject to graduate.

STATE CREDIT—State credit for a course is earned when students demonstrate the minimum skills and knowledge established by the district for a passing grade or achieve the skills and knowledge from those courses as specified in the IEP. The Texas Education Agency has published a list of courses approved by the state board for which state credit toward graduation may be earned. When your child passes courses from this list, with or without modifications, state credit is earned.

When certain types of modifications are provided to State Board of Education approved courses, the student's transcript is coded to note the modification. When the content (what is taught) or the mastery level (how well the student learns the content) is changed, the student's transcript will have an "S" noted by that particular course. Other types of modifications, such as an interpreter or allowing extra time for tests, can be provided without an "S" code on the transcript.

LOCAL CREDIT—Local credit is earned when a student demonstrates the minimum skills and knowledge expected in a course designed by the local school district. These courses are not on the State Board of Education approved list. Local credit is also earned by students who achieve the individual goals and objectives in their IEPs. When a student earns credit in these ways, the transcript will be coded with both an "S" and "L" to note that the course is a local credit course.

Texas Assessment Of Academic Skills (TAAS)

All students are expected to pass exit-level tests demonstrating mastery of basic skills in order to graduate from high school. For students in special education, modifications of regular classroom procedures specified in the IEP and allowed under State Board of Education rules (e.g., providing an interpreter, allowing oral responses to test items) must be provided if needed during the exit level testing. *(19 TAC 101.3(d))* If the ARD committee determines that the student's handicap prevents mastery of some or all of the skills measured by the tests, the IEP will specify that the student is exempt from taking some or all of the tests. *(19 TAC 101.3(b)(c)(e), 89.223(a)(4)(E))* The transcript will reflect whether the TAAS was taken.

Transferring To A New School District

If your child has been in special education and is transferring to a new school district, it will be helpful if you ask the school district you are leaving to send copies of records to the new school district. After registering in the new school, an ARD committee meeting will be held for your child. If valid assessment data is available from the previous school district, an individual educational plan may be developed and placement made. If valid assessment is not immediately available, a temporary placement may be made and within 30 school days another ARD committee will meet to make decisions based on either a new assessment or one received from the previous district. *(19 TAC 89.221(e))*

Procedures Regarding Educational Records

You have the right to review all of your child's educational records.

As a parent, you have the right to:

- receive a list of the type and location of your child's educational records which are collected, maintained, or used by the school *(34 CFR 300.565)*;
- inspect and review all of your child's educational records without unnecessary delay and before any IEP meeting or due process hearing, and in no case, more than 45 days after your request *(34 CFR 300.562(a))*;
- have a person of your choice inspect and review your child's educational records *(34 CFR 300.562(b)(3))*;
- have copies of your child's educational records made under certain circumstances. The school may charge a reasonable copying fee but may not charge for assembling the records *(34 CFR 300.562(b)(2), 300.566)*;
- request that the school give you copies of educational records at no charge if the charge would prevent you having the copy made *(34 CFR 300.566)*;
- have school personnel explain or interpret any item in the education records *(34 CFR 562(b)(1))*;

- see a list of those persons, besides you or authorized school employees, who have seen your child's educational records and why they saw them *(34 CFR 300.563)*; and

- request a change in the educational records if you think there is a mistake *(34 CFR 300.567(a))*;

- if the school will not change the statement, you may ask the superintendent for a hearing to decide if the educational records should be changed. *(34 CFR 300.568)* This is not the "impartial due process hearing" discussed on page 19 in this booklet. The hearing to determine whether educational records should be changed includes at least the following elements:

    a. The hearing must be held within a reasonable period of time after the school has received the request. You will be notified of the date, place, and time reasonably in advance of the hearing. *(34 CFR 99.22(a)(b))*

    b. The hearing may be conducted by anyone, including a school employee, who does not have a direct interest in the hearing's outcome. *(34 CFR 99.22(c))*

    c. You will have a full and fair opportunity to present evidence, and may be aided or represented by anyone you choose, including an attorney, at your expense. *(34 CFR 99.22(d))*

    d. The school will make its decision in writing within a reasonable period of time after the hearing is over. *(34 CFR 99.22(e))*

    e. The decision will be based solely upon the evidence presented at the hearing and will include a summary of the evidence and the reasons for the decision. *(34 CFR 99.22(f))*

    - if the result of the hearing is that the records should not be changed, then you may include your own statement in the educational records *(34 CFR 300.569(b), 99.21(b)(2))*;

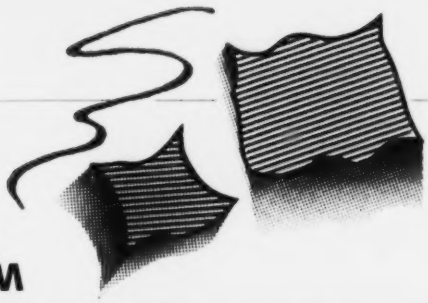
    - if the result of the hearing is that the record should be changed, the records will be changed *(34 CFR 300.569(a), 99.21(b)(1))*;

- be notified by the school when your child's educational records are no longer needed, usually seven years after educational services have ended. You may then request that personally identifiable information in those records be destroyed. Before you request that the school destroy this information, be certain that it will not be needed for other purposes (such as applying for social security benefits, college, rehabilitation services);

- the school may keep without time limitation a permanent record of the student's name, address, telephone number, grades, attendance record, classes attended, and grade level and year completed. *(34 CFR 300.573)*

When your child reaches eighteen years of age or begins attending an institution of post-secondary education, all of these rights on educational records transfer to him/her.

IF YOU HAVE A PROBLEM



Parents and school personnel, on occasion, disagree about the student's educational program or services. Usually, this disagreement can be resolved through open communication.

It is helpful that you make your concerns known to the right person. The first step is to contact the school principal or the special education director. They can arrange an ARD committee meeting or a conference with your child's teacher(s) and other school people. Depending upon the problem, it may be helpful to meet with the special education director, school superintendent or board of trustees to resolve the disagreement. If you are not satisfied after discussing your concerns with the school personnel, there are other actions you can take.

COMPLAINT PROCESS

If you feel the school has disregarded or violated federal or state requirements in educating your child, you may file a written complaint with the Texas Education Agency and request an investigation.

Your written complaint should state that you believe the school has violated a federal or state regulation. Also include the facts upon which the statement is based. Upon receipt of the written complaint, Agency personnel will investigate and give you a written report of findings in a timely manner, usually within 60 days. You have the right to request that the U.S. Secretary of Education or a delegate of that office review the final decision of the state.

To file a complaint with the Texas Education Agency, contact:

Division of Complaints and Administration
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

The Texas Education Agency through the Division of Complaints and Administration operates a toll free parent hotline. Manned during normal business hours, this hotline lets parents discuss the possible violations with a trained professional. The number is 1-800-252-9668. *(19 TAC 89.229(c))*

MEDIATION PROCESS

Another way to resolve differences with the school is through mediation. *(19 TAC 89.229(c))* This is a problem-solving process in which a specially trained person from the Agency's special education staff, acting as an impartial third person, works with you and the school to find a solution that is satisfactory to both parties. Mediation is used for resolving issues that are matters of judgment and local practice rather than violations of federal or state requirements.

You may request mediation by writing:

Division of Complaints and Administration
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

To use the mediation process, both you and the school must agree to participate. If you and the school staff reach an acceptable solution, you both abide by the agreement in good faith. If you cannot reach a solution, you may proceed with a due process hearing. Mediation cannot be used to deny or delay your right to a hearing. *(19 TAC 89.229)*

Hearing Process

You have the right to request a hearing with an impartial hearing officer at any time. An impartial hearing officer, who is not an Agency employee, is an attorney appointed by the commissioner of education to conduct hearings about grievances involving the education of students in special education. The hearing officer must not have any personal or professional connection with the school.

The hearing officer conducts the hearing and sends a written decision to the parent, the school, and the commissioner of education. After your child's name has been removed, reports on these decisions are distributed among agency staff and others upon request and can affect the way the agency interprets and implements rules and regulations. The following steps are taken during the hearing process:

- File your request for a hearing within 15 days, if possible, after the ARD committee makes a decision, fails to act, or takes action with which you disagree. Failure to file your request within 15 days does not affect your right to a hearing. If you fail to request a hearing promptly, the school may act on the ARD committee decisions.
- The request for a hearing must be made in writing and must explain why you want the hearing. Be sure to include the telephone number where you can be reached during business hours so the hearing officer can contact you without delay.
- One copy of the request for a hearing should be addressed to the school's board of trustees and delivered to the superintendent's office.
- Another copy of the hearing request should be sent immediately to the commissioner of education at the following address:

  Commissioner of Education
  Texas Education Agency
  1701 North Congress Avenue
  Austin, Texas 78701

- Upon receiving your written request for a hearing, the commissioner will immediately forward your request to a hearing officer. The hearing officer will contact you promptly to set a hearing date which is usually scheduled within 10 to 15 days. The hearing will be held as close as possible to your home or work. (A mediator will also be notified of your request for a hearing. If it appears that mediation may help, you will be contacted promptly to see if you are interested in mediating the problem.)

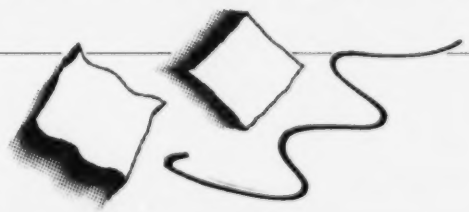
- During the hearing you will present your side of the problem to the hearing officer and the school will present its side. Although you do not have to be represented by a lawyer, one could be very helpful. The hearing is formal and complies with legal procedures for administrative hearings.
- You should ask the school about any free or low-cost legal and other relevant services available in the area. *(34 CFR 300.506(c))*
- The hearing officer is required by law to make a final decision within 45 days of receiving your request for a hearing. Time extensions may be granted by the hearing officer at your request or the school's. *(34 CFR 300.512(a)(c))*
- Both you and the school will receive a copy of the hearing officer's decision within 45 days after the initial request for the hearing. *(34 CFR 300.512(a))*
- The hearing officer's decision is final unless appealed by either you or the school in state or federal district court. *(34 CFR 300.509, 300.511)*

In the hearing process, both you and the school have the right to;

- be represented by a lawyer or aided by persons with training or knowledge about the problems of students in special education. *(34 CFR 300.508(a)(1))*;
- present evidence, confront, cross-examine, and subpoena witnesses (subpoenas should be requested of the hearing officer assigned to your case) *(34 CFR 300.508(a)(2)*;
- prohibit any evidence from being presented at the hearing that has not been disclosed to you or the school at least five days before the hearing *(34 CFR 300.508(a)(3)*; and
- obtain a written transcript of the hearing *(34 CFR 300.508(a)(4))*.

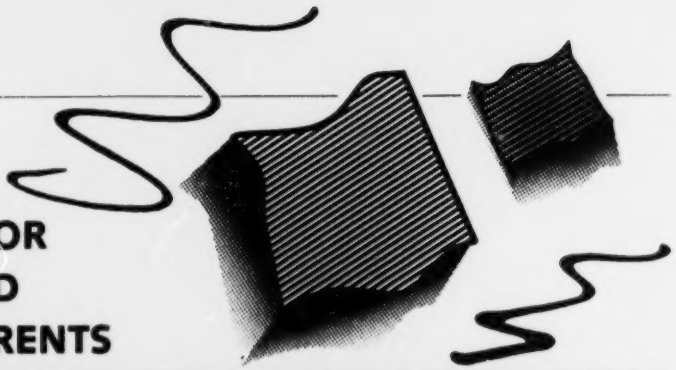
When involved in a hearing, you have the right to:

- have the hearing at a reasonably convenient time and place *(34 CFR 300.508(d))*;
- have your child present at the hearing *(34 CFR 300.508(b)(1))*;
- open or close the hearing to the public *(34 CFR 300.508(b)(2))*; and
- as a general matter, have your child stay in his or her present educational setting during the hearing until all appeals are final, unless you and the school agree otherwise. *(34 CFR 300.513(a))*



ATTORNEYS' FEES

The Handicapped Children's Protection Act of 1986 ("the Act") allows courts to award reasonable attorneys' fees and related costs to certain prevailing parties in actions or proceedings brought under the Education of All Handicapped Children's Act. You, as a parent or guardian, may be able to recover attorneys' fees when you prevail in a dispute concerning educational services for your child. Because your right to recover attorneys' fees depends upon meeting certain conditions set out in the Act, you should discuss this matter with your attorney.



AGENCIES WHICH PROVIDE LOW COST OR FREE ASSISTANCE AND INFORMATION TO PARENTS

Advocacy, Incorporated
7800 Shoal Creek Blvd.
Austin, Texas 78757
Toll Free: 1-800-252-9108

Association for Retarded Citizens/Texas
833 Houston Street
Austin, Texas 78756
Toll Free: 1-800-252-9729

Texas Association for Children and
Adults with Learning Disabilities
1011 W. 31st Street
Austin, Texas 78705
(512) 458-8234

Texas Department of Mental Health
and Mental Retardation
Toll Free: 1-800-252-8154

Legal Aid in your area—check your telephone book, or ask the school for this information.

THE CHILD-CENTERED PROCESS

STEP	WHAT HAPPENS?	WHEN?	WHY?
1. comprehensive individual assessment	• referral information received by special education • notice of proposed assessment given to parents • parents' consent required for initial assessment • testing of student	• within 30 school days from the time special education receives referral information • at least every 3 years thereafter for students placed in special education	• to provide the information to the ARD committee for making educational decisions
2. admission, review, and dismissal (ARD) committee meeting	• prior notice of ARD committee meeting given to parents • existence of a handicap and special education needs are determined • educational program is developed	• within 30 calendar days from the time the written assessment report is completed • reviews IEP at least annually; more frequently, if necessary	• to make educational decisions
3. individual educational plan (IEP) (if student qualifies for special education)	• goals and objectives for student learning are set • services to be provided are outlined • parent consent required before services begin	• developed during the ARD committee process • carried out for the time period stated on the IEP	• to make sure that educational program meets individual needs of student
4. IEP review	• ARD committee reviews progress on educational objectives • makes changes in IEP or orders reappraisal, as necessary	• at least annually • more frequently if necessary	• to ensure that the IEP continues to meet the student's needs

RECEIPT FOR RIGHTS BOOKLET

NAME OF STUDENT _____

DATE OF BIRTH _____ SCHOOL _____

This is to verify that I have received a copy of *Special Education: Parent and Student Rights, 1990,* which informs me of my rights throughout the child-centered educational process. These rights have been explained to me by

_____, _____
Name Position

on _____.
Date

I understand that my rights include the right to receive:

(1) this and all other written notices in the language I understand (primary language) or, if needed, a translation of such orally, in sign language, or in braille as appropriate, and

(2) answers from school personnel to additional questions I may have.

My signature below indicates that I received the booklet and understand its contents.

_____
SIGNATURE OF PARENT, SURROGATE PARENT, GUARDIAN, OR ADULT STUDENT

DATE SIGNED _____

COMPLIANCE STATEMENT

TITLE VI, CIVIL RIGHTS ACT OF 1964; THE MODIFIED COURT ORDER, CIVIL ACTION 5281, FEDERAL DISTRICT COURT, EASTERN DISTRICT OF TEXAS, TYLER DIVISION

Reviews of local education agencies pertaining to compliance with Title VI Civil Rights Act of 1964 and with specific requirements of the Modified Court Order, Civil Action No. 5281, Federal District Court, Eastern District of Texas, Tyler Division are conducted periodically by staff representatives of the Texas Education Agency. These reviews cover at least the following policies and practices:

(1) acceptance policies on student transfers from other school districts;

(2) operation of school bus routes or runs on a non-segregated basis;

(3) nondiscrimination in extracurricular activities and the use of school facilities;

(4) nondiscriminatory practices in the hiring, assigning, promoting, paying, demoting, reassigning, or dismissing of faculty and staff members who work with children;

(5) enrollment and assignment of students without discrimination on the basis of race, color, or national origin;

(6) nondiscriminatory practices relating to the use of a student's first language; and

(7) evidence of published procedures for hearing complaints and grievances.

In addition to conducting reviews, the Texas Education Agency staff representatives check complaints of discrimination made by a citizen or citizens residing in a school district where it is alleged discriminatory practices have occurred or are occurring.

Where a violation of Title VI of the Civil Rights Act is found, the findings are reported to the Office for Civil Rights, U.S. Department of Education.

If there is a direct violation of the Court Order in Civil Action No. 5281 that cannot be cleared through negotiation, the sanctions required by the Court Order are applied.

TITLE VII, CIVIL RIGHTS ACT OF 1964; EXECUTIVE ORDERS 11246 AND 11375; TITLE IX, 1973 EDUCATION AMENDMENTS; REHABILITATION ACT OF 1973 AS AMENDED; 1974 AMENDMENTS TO THE WAGE-HOUR LAW EXPANDING THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967; AND VIETNAM ERA VETERANS READJUSTMENT ASSISTANCE ACT OF 1972 AS AMENDED IN 1974.

It is the policy of the Texas Education Agency to comply fully with the nondiscrimination provisions of all federal and state laws and regulations by assuring that no person shall be excluded from consideration for recruitment, selection, appointment, training, promotion, retention, or any other personnel action, or be denied any benefits or participation in any programs or activities which it operates on the grounds of race, religion, color, national origin, sex, handicap, age, or veteran status (except where age, sex, or handicap constitute a bona fide occupational qualification necessary to proper and efficient administration). The Texas Education Agency makes positive efforts to employ and advance in employment all protected groups.

Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701
GE0 312 02